UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION

SAN ANTONIO AQUARIUM, LLC d/b/a	§	
SAN ANTONIO AQUARIUM,	§	
	§	
Plaintiff,	§	
	§	
V.	§	CASE NO. 5:20-cv-00646
	§	
ATAIN SPECIALTY INSURANCE	§	
COMPANY,	§	
	§	
Defendant.	§	

DEFENDANT ATAIN SPECIALTY INSURANCE COMPANY'S NOTICE OF REMOVAL

Defendant Atain Specialty Insurance Company ("Atain") files this Notice of Removal of this action from the District Court in the 57th Judicial District, Bexar County, Texas to the United States District Court for the Western District of Texas, San Antonio Division, the district and division in which the 57th Judicial District Court is located. This Notice of Removal is filed pursuant to 28 U.S.C. §§ 1441 and 1446. In support hereof, Atain shows this Court as follows:

On April 13, 2020, Plaintiff San Antonio Aquarium, LLC d/b/a San Antonio Aquarium ("**Plaintiff**") commenced an action against Atain in the District Court for the 57th Judicial District, Bexar County, Texas, entitled *San Antonio Aquarium*, *LLC d/b/a San Antonio Aquarium v. Atain Specialty Insurance Company*, pending as Cause No. 2020CI07043 (the "**State Court Case**").

Removal is timely because thirty (30) days have not elapsed since Plaintiff served its Original Petition ("**Plaintiff**") on Atain, 1 as required by 28 U.S.C. § 1446(b).

Citation in the State Court Case was issued on **May 1, 2020**. See Ex. B, p. 1. Atain was served with the citation on **May 4, 2020**. See id.

A copy of this Notice of Removal will be filed with the State of Texas District Court, in Bexar County, and a copy of this Notice of Removal will also be served on Plaintiff. Atain is, contemporaneously with the filing of this Notice, giving written notice of filing of this Notice of Removal with the clerk of the 57th Judicial District Court of Bexar County, Texas.

An index of the exhibits to this Notice of Removal is attached hereto as **Exhibit A**. Attached hereto as **Exhibits B** and **C** are true and legible copies of the current docket sheet in the State Court Case and all process, pleadings, orders, and other papers or exhibits of every kind, including depositions, now on file in the State Court Case. A list of counsel of record in this case is attached hereto as **Exhibit D**.

Atain has filed contemporaneously with this Notice a civil cover sheet and the Supplement to JS44 Civil Cover Sheet for cases removed from state court.

Ground for Removal: Diversity

This Court has original jurisdiction over this case pursuant to 28 U.S.C. § 1332, in that this is a civil action where the matter in controversy exceeds \$75,000 and is between citizens of different States.

A. The amount in controversy exceeds the federal minimum jurisdictional requirements.

Plaintiff has pled that it is seeking monetary relief over \$1,000,000. *See* Petition, para. 5, p. 2, a true and correct copy of which is attached as the first document in **Exhibit C**. Thus, the amount in dispute exceeds \$75,000, exclusive of interest and costs.

B. There is complete diversity between Plaintiff and Defendant.

Under the diversity statute, corporations "shall be deemed to be a citizen of any State by which it has been incorporated and of the State where it has its principal place of business...." 28 U.S.C. § 1332(c)(1).

Plaintiff was at the time of the filing of this action, has been at all times since, and still is a corporation organized under the laws of Texas, with its principal place of business in Texas.

Accordingly, Plaintiff is a citizen of Texas for purposes of determining diversity jurisdiction.

Atain is a corporation organized under the laws of Michigan, with its principal place of business in Michigan. Accordingly, Atain is a citizen of Michigan for purposes of determining diversity jurisdiction.

Accordingly, complete diversity exists in this case and removal is proper because Plaintiff is a citizen of Texas and Atain is a citizen of Michigan.

WHEREFORE, Defendant Atain Specialty Insurance Company prays that the above-described action now pending in the 57th District Court in Bexar County, Texas, be removed to this Court.

Respectfully submitted,

/s/ Michael D. Feiler

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ATTORNEYS FOR DEFENDANT ATAIN SPECIALTY INSURANCE COMPANY

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing instrument is being served upon all counsel of record via electronic means and in accordance with the Federal Rules of Civil Procedure on this 29th day of May, 2020.

/s/ Michael D. Feiler

Michael D. Feiler